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Before the
FEDERAL COMMUNICATIONS COMMISSION FEDERAL COMMUNICATIONS COMMISSIO.
Washington, D.C. 20554 OFFICE OF SECRETARY

In the Matter of)
)
Streamlining the Commission's Antenna Structure) WT Docket No. 95-5
Clearance Procedure)
)
and)
) DOCKET FILE COPY ORIGINAL
Revision of Part 17 of the Commission's Rules Concerning)
Construction, Marking and Lighting of Antenna Structures)

PETITION FOR PARTIAL RECONSIDERATION

The Wireless Cable Association International, Inc. ("WCA"), by its attorneys and pursuant to Section 1.429 of the Commission's Rules, hereby petitions the Commission to reconsider in part certain of the rules and policies adopted in the *Report and Order* in this proceeding (the "*Report and Order*").^{1/}

I. INTRODUCTION.

WCA is the trade association of the wireless cable industry. Its members include the operators of virtually every wireless cable system in the United States, as well as licensees in the Multipoint Distribution Service ("MDS") and the Instructional Television Fixed Service ("ITFS") that provide transmission capacity to wireless cable systems. WCA was an active participant throughout this proceeding, submitting formal comments in response to the *Notice*

^{1/}*Streamlining the Commission's Antenna Structure Clearance Procedure and Revision of Part 17 of the Commission's Rules Concerning Construction, Marking, and Lighting of Antenna Structures*, WT Docket No. 95-5, FCC 95-473 (rel. Nov. 30, 1995)[hereinafter cited as "*Report and Order*"].

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of Proposed Rule Making.^{2/} Thus, WCA has standing to petition for partial reconsideration of the *Report and Order*.

At the outset, WCA applauds the Commission for its efforts to replace the current clearance procedures applicable to licensees and permittees with a uniform registration process for structure owners. WCA believes that the procedures adopted in the *Report and Order* will generally achieve the Commission's stated objective of streamlining the Commission's antenna clearance process, reducing administrative burdens on the public and the Commission, and ensuring safety in air navigation.^{3/} However, WCA also believes that further fine tuning is necessary in order to avoid undue transitional burdens on wireless cable system operators, the MDS and ITFS licensees from whom they lease transmission capacity, and the Commission's staff.

II. DISCUSSION.

Specifically, WCA is troubled by the procedures adopted by the Commission for addressing those circumstances where an antenna support structure is registered at coordinates that differ from the coordinates currently specified on the authorizations of MDS and ITFS stations located on the structure. Although obviously not intended by the Commission, those procedures will result in substantial, totally unnecessary burdens being imposed on the wireless

^{2/}*Streamlining the Commission's Antenna Structure Clearance Procedure and Revision of Part 17 of the Commission's Rules Concerning Construction, Marking, and Lighting of Antenna Structures*, 10 FCC Rcd 2771 (1995).

^{3/}See *Report and Order*, at ¶ 2.

cable industry and the Commission.

Under the new rules promulgated in the *Report and Order*, antenna support structure registrants will be required to submit on FCC Form 854 location data in terms of degrees, minutes, and nearest second.^{4/} The Commission has indicated that owners should attempt to register with the most accurate possible information, rather than merely repeating the coordinates specified on the authorizations issued to licensees located on the tower.^{5/}

Recognizing that many an antenna support structure will be registered with coordinates that differ from those specified on the Commission authorizations of stations located on the structure,^{6/} the Commission has developed a transitional mechanism. Upon receipt from the Commission of an Antenna Structure Registration on FCC Form 854-R, each tower owner is required to provide a copy to each tenant licensee or permittee located on the structure. Receipt of that registration commences a 30 day period during which each licensee may file an application for conforming changes in its authorization. In other words, the licensee will have to secure Commission consent to “relocate” to the new coordinates.

While Appendix C to the *Report and Order* is not entirely clear, it certainly suggests that each MDS and ITFS licensee that must “relocate” will be required to submit a complete application, including full-blown demonstrations of interference protection, in order to secure

^{4/}The antenna structure registration database will accept latitude and longitude data in either the NAD 27 or NAD 83 datum.

^{5/}See *Report and Order*, at ¶ 35.

^{6/}See *id.*

a conforming authorization. Of particular concern, it appears that where the “relocation” of an MDS or ITFS station results in harmful predicted interference to nearby facilities, the Commission contemplates that the licensee of the station that is “relocating” will “be required to take measures to avoid harmful interference, such as decreasing antenna height, reducing power, or employing a directional radiator.”^{7/}

These procedures will impose a significant burden on the wireless cable industry, the MDS and ITFS licensees that provide transmission capacity to wireless cable systems, and the Commission’s staff. As a result of two phenomenon, it is not uncommon for one MDS or ITFS station to cause harmful, albeit permitted, electrical interference to another.

First, the Commission has often permitted applicants for new or modified MDS and ITFS stations to accept harmful interference from previously-proposed facilities. Second, just recently the Commission expanded from 15 miles to 35 miles the radius of the protected service area afforded MDS and ITFS stations employed by wireless cable system operators.^{8/} As a result, closely-spaced stations that protected each other’s 15 mile protected service area often cause harmful predicted interference within the new 35 mile protected service area. In either case, the

^{7/}*Id.* at ¶ 35. During the period when the Commission is considering these applications, no forfeitures or other sanctions will be assessed for inadvertent operation at the “wrong” coordinates, and a licensee will be permitted to continue operating from the “incorrect” coordinates specified in its authorization. *See id.*

^{8/}*See Amendment of Parts 21, 43, 74, 78, and 94 of the Commission’s Rules Governing Use of the Frequencies in the 2.1 and 2.5 GHz Bands Affecting: Private Operational-Fixed Microwave Service, Multipoint Distribution Service, Multichannel Multipoint Distribution Service, Instructional Television Fixed Service, and Cable Television Relay Service*, 10 FCC Rcd 7074, 7083-85 (1995).

stations are “grandfathered” and permitted to cause interference, but may not be modified in a manner that will result in additional harmful electrical interference.

Because so many MDS and ITFS licensees are causing “grandfathered” interference, it is likely many will be forced to modify their facilities if required to “relocate” as a result of changed antenna support structure coordinates. As a practical matter, any “change” in location, other than a change directly away from the station receiving “grandfathered” interference, will result in new predicted interference. Thus, in most cases where an MDS or ITFS antenna support structure is registered at different coordinates, facility modifications will be required.

WCA certainly recognizes and agrees that the Commission’s new tower registration program should not become a vehicle for circumventing the Commission’s interference protection rules. On the other hand, strict enforcement of the Commission MDS and ITFS interference protection rules as a result of the new tower registration process will wreck havoc on the wireless cable industry. Therefore, WCA suggests a middle ground — one that avoids the need for facility modifications where only *de minimis* new interference will result.

Specifically, WCA suggests that where an antenna support structure is registered at coordinates that are within three or fewer seconds of the coordinates on an MDS or ITFS authorization, the Commission permit the licensee of that MDS or ITFS station to secure a corrected authorization without submitting interference studies or demonstrating non-interference. However, where the station being “relocated” was only able to secure its current authorization by utilizing terrain blockage, this expedited process should only be available where

the licensee can and does certify to the Commission that neither the new coordinates or any resulting increase in tower height as measured above ground level or above mean sea level will eliminate the terrain shielding protection that led to the initial authorization grant.

As a practical matter, such an approach should not be objectionable to any licensee, for three seconds is within the margin of error that is currently accepted in specifying coordinates. The Commission itself has recognized the inherent inaccuracy in some of the accepted mechanisms for specifying coordinates. In particular, the *Report and Order* permits coordinates derived from GPS receivers to be used during the registration process, although such coordinates are only accurate to 100 meters (≈ 3.3 seconds).^{2/} Thus, MDS and ITFS licensees already accept the possibility that nearby stations may be even more than three degrees closer than it would appear from their authorizations. And, the certification assure the continuation of any interference protection derived through terrain blockage.

In addition, WCA urges the Commission to liberally grant waivers of its interference protection rules where necessary to avoid undue hardship on operating wireless cable systems. Where operating stations have been developed in good faith reliance on the accuracy of tower coordinates, and facility modifications would be burdensome or cause a reduction in service to the public, but would not result in interference to any other operating system, the Commission should consider waiving its interference protection rules, if the public interest would be served.

Undoubtably, the tower registration process will result in a flurry of MDS and ITFS

^{2/}*Id.* at ¶ 31 n. 51.

“relocation” applications resulting from corrections in coordinates. Coupled with the increase in MDS applications that will result once the interminable auction of MDS Basic Trading Area authorizations concludes, the industry and the Commission are faced once again with the prospect of regulatory delays. Adoption of WCA’s proposal will greatly simplify for the wireless cable industry and the Commission the process of transitioning to the new antenna registration process by eliminating the need for licensees to prepare, and the Commission’s staff to scrutinize, interference analyses that would otherwise have to accompany applications for *de minimis* facility modifications.

III. CONCLUSION.

Once again, the suggestion set forth above notwithstanding, the Commission and its staff

have done yeoman's service in crafting its new tower registration system. With the fine-tuning proposed by WCA, the Commission will have accomplished its goal of effectively streamlining and making more accurate its tower registration system.

Respectfully submitted,

THE WIRELESS CABLE ASSOCIATION
INTERNATIONAL, INC.

By: 
Paul J. Sinderbrand

Wilkinson, Barker, Knauer & Quinn
1735 New York Avenue, NW
Washington, D.C. 20006-5289
(202) 783-4141

Its Attorneys

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